



An  
Coimisiún  
Pleanála

## Inspector's Report ACP-323224-25

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**Type of Appeal**

Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax Map

**Location**

Lands at Ardgeeha Lower and Burgagery Lands West, Fethard Road, Clonmel, Co. Tipperary

**Planning Authority**

Tipperary County Council

**Planning Authority Reg. Ref.**

RZLT.2025.6

**Appellant**

Elizabeth Twohig

**Inspector**

John Duffy

## **1.0 Site Location and Description**

- 1.1. The subject lands, identified as Parcel ID TYLA00002787 on the RZLT Final Map and measuring c 15.9 ha, are located on the western side of the R689 Fethard Road, in the townlands of Ardgeeha Lower and Burgagery Lands West, at Fethard Road, Clonmel, Co. Tipperary. They are located immediately north of the Clonmel Campus of the Technological University of the Shannon, and north of the existing N24 Clonmel Inner Relief Road. The subject lands are greenfield in nature.

## **2.0 Zoning and Other Provisions**

- 2.1. The subject lands are zoned 'R1 - New Residential' – 'To provide for new residential development' in the Clonmel and Environs Local Area Plan (LAP) 2024-2030.
- 2.2. The Zoning Matrix is set out in Table 17 of the LAP and confirms that residential development is permitted in principle on R1 zoned lands.
- 2.3. Table 1 of Appendix 1: 'Serviced Land Assessment for Lands available for new residential development' includes Land Parcel ID TYLA00002787 as Site No. 6. The site is designated as Tier 1 ('Serviced Land').
- 2.4. Section 6.6 notes that proposed Road Link 1 "Connects the R688 Cashel Road via Longfield Avenue east to an existing roundabout (south of the Paddocks housing estate) on the R689 Fethard Road."
- 2.5. Policy 6.5: 'Preserve the Study Area and Route Corridor Options, or, when it emerges, the corridor of the Preferred Option for the proposed N24 Waterford to Cahir Scheme (Major National Road Project).'

## **3.0 Planning History**

### Subject site

Planning Authority Reference 07550114 refers to a September 2008 to grant permission for 312 residential units, a mixed-use complex, creche, 6 no. serviced

sites, new access road and associated site works. This permission was not implemented.

RZLT Appeal (Nearby site):

ABP-320348-24 relates to a nearby site (to the north-west) at Ard Gaoithe, Cashel Road, Clonmel, Co. Tipperary. In this case decided in September 2024, An Bord Pleanála confirmed the determination of the Local Authority, which was to exclude the southern part of the lands from the RZLT map, as they met the criteria for exclusion under section 653B(iii), (which relates to land that it is reasonable to consider is required for, or is integral to, occupation by transport facilities and infrastructure), and included the lands at the northern part of the site as they met the criteria for inclusion on the RZLT map under section 653(b).

## **4.0 Submission to the Local Authority**

4.1. The appellant made a submission to the Local Authority which is summarised as follows:

- The subject lands are not serviced, nor have they any possibility of being serviced in the near term. The primary hurdle is the pre-condition of the provision of a new link road between the Fethard and Cashel Roads.
- Recent costing of the road is approximately €3.329 million, which renders the site unserviceable and undeliverable.
- In partnership with the Local Authority, LIHAF funding was applied for but this was unsuccessful. The landowner remains willing to investigate any funding structures to facilitate the required road.
- The landowner is supportive of the recent Tipperary County Council Road Alignment and Option Studies for the N24 Waterford to Cahir Road.
- Landowner committed to housing on the subject lands and engaging with the Local Authority regarding any new delivery options.

## **5.0 Determination by the Local Authority**

5.1. The Local Authority made a split decision as follows:

1. The northern portion of the land within the N24 Waterford to Cahir Road Project (see Figure 1 which outlines the lands to be excluded) should be excluded from the RZLT Final Map pursuant to Section 653B(iii) of the Taxes Consolidation Act 1997 (as amended), which is land that it is reasonable to consider is required for, or is integral to, occupation by transport facilities and infrastructure.
2. It is reasonable to consider that the remainder of the land may have access, or be connected, to services and is therefore in-scope for the RZLT pursuant to Section 653B of the Taxes Consolidation Act 1997 (as amended). The land is not within the Route Corridors for the N24 Waterford to Cahir Road Project.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The appeal may be summarised as follows:

- Requests that the entire land parcel be removed from RZLT map.
- The lands, which comprise two portions (northern and southern) are currently unserved by access roads. Reference is made to the previously permitted residential development for housing on the lands.
- Upfront delivery of a new link road is a pre-condition of development according to the Local Authority, with the preferred option being for a new link / relief road between the Fethard and Cashel Roads. It was stipulated that a relief road on the northern portion of the lands must be delivered prior to delivery / occupation of houses on the southern portion of the site.
- Efforts have been made to bring forward the lands for development. LIHAF funding for the road was refused by central government.
- The southern portion of the lands are not within Route Corridors for the N24 Waterford to Cahir Road Project; however Clonmel Borough Council (CBC) has

maintained that no development can be delivered on the lands until a link road is completed on the northern part of the site.

- It is unreasonable to impose RZLT when CBC prohibit development until Tipperary County Council deliver the link road, which it does not intend to do until 2034 at the earliest.
- If development was to be facilitated on the lands prior to the delivery of the road, it is stated that a planning application for housing would be brought forward.
- There are potential ways to access the land from existing road infrastructure which would enable development of housing.

## 7.0 Assessment

7.1. The grounds of appeal have been fully considered. Under Section 653J of the Taxes Consolidation Act 1997 as amended, the Commission's role in the current appeal is to review the determination of the Local Authority under section 653E which is based on the application of the relevant criteria set out in section 653B. This position is consistent with the Residential Zoned Land Tax – Guidelines for Planning Authorities (June 2022), which clearly sets out in Section 3.3.2 that *'In considering appeals, An Bord Pleanála is restricted to the grounds of appeal, the determination of the local authority on the submission made during the public display period, and any additional information on the servicing or use of the land which the Board may seek from the landowner, the local authority or stakeholders identified in article 28 of the 2001 Regulations. In assessing any appeal, the Board is restricted to considering whether the lands meet the qualifying criteria set out in section 653B only.'*

7.2. Section 653B of the Taxes Consolidation Act, as amended, sets out the criteria for inclusion on the map, and states that the first consideration is land which in subsection (a) 'is included in a development plan' or 'local area plan' zoned (i) solely or primarily for residential use, or (ii) for a mixture of uses including residential. The subject lands identified for inclusion on the RZLT map are included in the Clonmel and Environs Local Area Plan (LAP) 2024-2030 and are zoned 'R1 - New Residential' for residential

use as required by section 653B of the Taxes Consolidation Act 1997, as amended. As such, the appeal lands are within scope of section 653B(a)(i).

- 7.3. The appellant is seeking the omission of the entire Land Parcel from the final RZLT map on the basis that no development can be delivered on the lands until the Clonmel Road Link 1 is completed. The submission received by the Local Authority from Tramore House Regional Design Office dated 17th April 2025 confirms that the subject lands (northern portion) are partially situated within the 150m wide Corridor for Clonmel Road Link 1, as per the Preferred Transport Solution (PTS) of the N24 Waterford to Cahir Project. Having regard to the foregoing and also to Policy 6.5 of the Clonmel and Environs Local Area Plan (LAP) 2024-2030, which seeks to preserve the N24 road corridor free from development, I consider the Local Authority acted appropriately by excluding the northern part of the site (stated as 6.1 ha) from the RZLT map (as indicated in Figures 1 and 2 of the Local Authority's report and determination) on the basis that these lands meet the criteria for exclusion under section 653B(iii)(II), which relates to land that it is reasonable to consider is required for, or is integral to occupation by transport facilities and infrastructure. Having regard to the foregoing, I recommend that the northern part of the site, as detailed above, is excluded from the RZLT map.
- 7.4. In its assessment the Local Authority considers it reasonable to consider that the southern part of the site can be connected to services and is therefore in scope for inclusion in the final RZLT map. The report from the Area Engineer notes that wastewater infrastructure and a water supply main are located within the R689 regional road to the east. Having examined the Uisce Éireann capacity registers (accessed 26<sup>th</sup> September 2025), it is considered reasonable that the site can connect to existing water infrastructure and there is capacity in the system to serve future development. I note that level of service improvements are required at the Clonmel & Environs water resource zone, however these works would not preclude development or inclusion on the RZLT map with reference to page 8 of the RZLT Guidelines.
- 7.5. There are footpaths along both sides of the adjoining regional road (R689) which are illuminated by public lighting. I note that the aforementioned planned road project will not impact on the southern part of the subject lands. In my view the southern portion of the lands could potentially be accessed from the R689 and/or from adjoining

residential estates to the west. In this context and having regard to the foregoing, it is reasonable to consider these lands have access to public infrastructure and facilities. As per Appendix 1 of the LAP, Parcel ID TYLA00002787 comprises Tier 1 serviced land that is available for development. Therefore, I consider that the southern portion of the land satisfies the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended. The lands are zoned for residential development and, therefore, meet the criteria for inclusion of the RZLT map under Section 653B(a) of the Act. There are no physical conditions at the southern portion of the site that would preclude the provision of dwellings, therefore, the southern portion of the Land Parcel meets the criteria for inclusion on the RZLT map under Section 653B(c) of the Act.

- 7.6. As detailed in section 7.3 of this report, I recommend that the northern part of the site (stated as 6.1 ha) be excluded from the RZLT map (as indicated in Figures 1 and 2 of the Local Authority's report and determination) on the basis that these lands meet the criteria for exclusion under section 653B(iii)(II), which relates to land that it is reasonable to consider is required for, or is integral to occupation by transport facilities and infrastructure.

## **8.0 Recommendation**

- 8.1. Having regard to the foregoing, I recommend that the Commission confirm the determination of the Local Authority. I consider that the northern portion of the site identified as lands at Ardgeeha Lower and Burgagery Lands West, Clonmel, Co. Tipperary (Parcel ID TYLA00002787), indicated by the shading in Figure 2 of the Local Authority's Determination dated 19<sup>th</sup> June 2025, meet the criteria for exclusion from the final RZLT map under section 653B(iii)(II) of the Taxes Consolidation Act 1997, as amended, which relates to land that it is reasonable to consider is required for, or is integral to, occupation by transport facilities and infrastructure.
- 8.2. The remaining lands within Parcel ID TYLA00002787, which relate to the southern part of the overall site and identified as being the non-shaded lands shown in Figure 2 of the Local Authority's Determination dated 19<sup>th</sup> June 2025 are zoned 'R1 – New Residential,' are designated Tier 1 lands, are located in an urban area, and are considered to be in scope of section 653B(a)(i). These lands can potentially be accessed from the R689 or from adjoining residential estates to the west. In this context and having regard to the foregoing, it is reasonable to consider these lands

have access to public infrastructure and facilities. No capacity or other reasons have been identified that would prevent the development of these southern lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands. These lands are considered to be in scope, given that they accord with the criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended.

## **9.0 Reasons and Considerations**

The northern portion of the site identified as lands at Ardgeeha Lower and Burgagery Lands West, Clonmel, Co. Tipperary (Parcel ID TYLA00002787), indicated by the shading in Figure 2 of the Local Authority's Determination dated 19th June 2025, zoned 'R1 – New Residential,' and designated Tier 1 lands meet the criteria for exclusion from the final RZLT map under section 653B(iii)(II) of the Taxes Consolidation Act 1997, as amended, which relates to land that it is reasonable to consider is required for, or is integral to, occupation by transport facilities and infrastructure.

The remaining lands within Parcel ID TYLA00002787, which relate to the southern part of the overall site and identified as being the non-shaded lands shown in Figure 2 of the Local Authority's Determination dated 19<sup>th</sup> June 2025 are zoned 'R1 – New Residential,' are designated Tier 1 lands, are located in an urban area, and are considered to be in scope of section 653B(a)(i). These lands can potentially be accessed from the R689 or from adjoining residential estates to the west. In this context and having regard to the foregoing, it is reasonable to consider these lands have access to public infrastructure and facilities. No capacity or other reasons have been identified that would prevent the development of these southern lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands. These lands are considered to be in scope, given that they accord with the criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended.

## **10.0 Recommended Draft Order**

**Taxes Consolidation Act 1997 as amended**

**Planning Authority: Tipperary County Council**

**Local Authority Reference Number: RZLT.2025.6**



**Appeal** by Elizabeth Twohig in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the Residential Zoned Land Tax Map by Tipperary County Council on the 19<sup>th</sup> day of June 2025 in respect of the site described below.

**Lands at:** Ardgeeha Lower and Burgagery Lands West, Fethard Road, Clonmel, Co. Tipperary.

### **Decision**

The Commission in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, and based on the reasons and considerations set out below, hereby decided to:

The Commission confirm the determination of the Local Authority and direct the Local Authority to exclude from the RZLT map the northern portion of the lands at Parcel ID TYLA00002787, those being the lands shown shaded in Figure 2 of the Local Authority's Determination dated 19<sup>th</sup> June 2025, and to include the remaining lands at Parcel ID TYLA00002787, those being the lands not shaded in Figure 2 of the Local Authority's Determination.

### **Reasons and Considerations**

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax – Guidelines for Planning Authorities (June 2022) which are considered to be a helpful complement to understanding the spirit and intent of the primary legislation. However, the recommendation is made within the clear parameters of the applicable legislation.

The northern portion of the site identified as lands at Ardgeeha Lower and Burgagery Lands West, Clonmel, Co. Tipperary (Parcel ID TYLA00002787), indicated by the shading in Figure 2 of the Local Authority's Determination dated 19<sup>th</sup> June 2025, zoned 'R1 – New Residential' and designated Tier 1 lands, meet the criteria for exclusion from the final RZLT map under section 653B(iii)(II) of the Taxes Consolidation Act 1997, as amended, which relates to land that it is reasonable to consider is required for, or is integral to, occupation by transport facilities and infrastructure.

The remaining lands within Parcel ID TYLA00002787, which relate to the southern part of the overall site and identified as being the non-shaded lands shown in Figure 2 of the Local Authority's Determination dated 19<sup>th</sup> June 2025 are zoned 'R1 – New Residential,' are designated Tier 1 lands, are located in an urban area, and are considered to be in scope of section 653B(a)(i). These lands can potentially be accessed from the R689 and / or from adjoining residential estates to the west. In this context and having regard to the foregoing, it is reasonable to consider these lands have access to public infrastructure and facilities. No capacity or other reasons have been identified that would prevent the development of these southern lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands. These lands are considered to be in scope, given that they accord with the criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended.

I confirm that the report represents my professional planning assessment, judgment and opinion on the matter assigned to me and that no person has influenced or tried to influence, directly or indirectly, the exercise of my professional judgment in an improper or inappropriate way.

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John Duffy  
Planning Inspector

16<sup>th</sup> October 2025